

In the Matter of Creation of a Low Power Radio Service

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**Comments of
Heartland Broadcasting Corporation**

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Comments of Heartland Broadcasting Corp.

Who is Heartland. Heartland Broadcasting Corp. (“Heartland”) is the licensee of WZTK (AM) Arcadia, FL; WZSP (FM) Nocatee, FL and WZZS (FM) Zolfo Springs, FL. These are small stations in rural communities in Florida’s “Heartland”, outside of any Arbitron-rated metropolitan area. Heartland’s ownership and management is fully integrated into the operation of the stations, and we work very hard to service our local community, providing local news, local programming and work with local charities for the benefit of our area. Heartland’s President, Harold M. Kneller, Jr. has been active in the broadcast industry since 1965, has a BS in Mass Communications from Emerson College, Boston, MA (1972) and is SBE certified Professional Broadcast Engineer. In addition, he has been a Commission licensee of several small market radio stations since 1986 and is active in local, state and national organizations in the broadcast industry.

LPFM Not in Public Interest. Heartland does not believe that it would be in the public interest to create low power and micro power FM services for numerous reasons. Through various rule changes over the years, the Commission has already permitted too many stations on the air, largely through reductions in separations and allowing Class A and other lower classes of channels on any frequency. In the NPRM for this proceeding, the Commission itself admits that

the AM band is over-crowded and interference ridden as a result and thus does not suggest that any of these proposed low power stations occupy the AM band. It believes that if any of these new stations were to broadcast on the AM band, it would “have a serious negative impact on our efforts to improve the quality of reception in this band”. Thus, the Commission recognizes that the AM band is polluted with significant levels of interference caused by too many allocations. We urgently request that the Commission not make this same error on the FM band, which after Docket 80-90, is dangerously overcrowded now. Commission (and Congressional) actions the last few years in terms of ownership consolidation rules were further admissions by the FCC (and Congress) that there were too many stations.

Even in our small unrated market listeners have many, many choices. There is significant format (and language) diversity on the broadcast bands. In addition to our local stations, several dozen FM signals from markets outside our area are easily listened to. What were once Class A facilities designed to render service to small communities are now Class Cx and are heard throughout the region. In addition, there are numerous AM signals available. The proliferation of radio signals is incessant, and as mentioned, diversity is immense. In a recent frequency search we recently performed for a non-commercial broadcaster, there wasn't even a single 100-watt frequency available in our rural area! Heartland believes that many of those wishing an LPFM license simply want to “play radio” as a hobby.

Needs Already Met. Broadcasters such as us do not “play” radio. We provide hundreds of Public Service Announcements (PSA) each week. We offer free time to local political candidates and conduct live broadcast forums for these candidates. In this hurricane and thunderstorm-rich area, we work closely with our Emergency Managers in local government to keep our listeners informed of emergency weather. We cover and promote local festivals and fairs, school educational and sporting events, charitable events, and more. Our stations carry local high school sports in two counties – every single game, both home and away. We are already performing many of the functions the Commission believes LPFM would provide, and we think most markets in our nation operate in this fashion. We also have to worry about the business side of things, such as paying taxes, making payroll, ever-higher utility bills, etc. In addition, we are mindful of complying with numerous government regulations from the FCC, the IRS and other branches of both federal and state governments. We do much for our communities and region. Many times we give free what is paid for in the newspaper.

Spectrum Already Overcrowded. The Commission proposes to allow three types of low power services to broadcast in the FM band. In Heartland’s opinion, the Commission will thus allow every nook and cranny of the FM band to be filled with some form of new low power station. LP1000 stations will be squeezed in wherever they will fit, but if one will not fit, an LP100 will go in its place. It is just like the existing band, where if a Class C will not fit, try a C1, then a C2 etc. until

there are no more possibilities. Only many more small holes will be filled with lots of small-coverage stations that will wreak havoc with the allocation system and dilute the audience and revenues of local broadcasters like us, sincerely trying to do a good job. Is this what the Commission desires on the FM band? To make matters worse, the Commission suggests that many LPFM stations be relieved of the Commission's own rules and regulations, which would, in Heartland's opinion, make regulation of these stations nearly impossible.

Interference Will Increase. Aside from allowing an unprecedented number of new LPFM stations on the air, what will happen if an existing full-service station needs to move its transmitter site yet LP1000 stations in all directions hem it in? Many stations have good service beyond their protected contours, which will vanish. This proposal will cause gridlock on the band. Does the Commission wish to stop the expansion of either new full-service FM stations, or power increases of existing facilities? This proposal will choke out most possibilities of future growth of existing facilities or new full-service stations. The relaxation of second and third-adjacent protections will cause reduction in coverage for existing stations, as well. Inexpensive receivers simply do not have the selectivity to deal with this problem. Better receivers will probably not have such difficulties. However, the mass of radios out there is not of the top quality, but rather of the lower quality. In our own area in Florida, there is a Class C2 on 98.3 MHz (WWRZ). Its transmitter was located in the City of Zolfo Springs (City of License for Heartland's WZZS). The next town over has a 99.1 MHz (C3)

station (WWOJ). Within two or three miles of the Zolfo Springs tower (which encompasses the whole town), most radios cannot receive the 99.1 signal. On a smaller scale, the LP1000 stations will do this to full-service stations in the close proximity of the LP1000's transmitter site. This example does not even use a 2nd or 3rd adjacency. It is a fourth adjacency not requiring any protection, yet the ratio of signal, wanted to unwanted is such that receivers malfunction. WWRZ's tower has recently been relocated, and the interference in Zolfo Springs has fully cleared up, as a result. It is clear from the grids that the Commission included in the NPRM, that only a pitifully small amount of service can be brought without compromising the spectral integrity of the band. Without eliminating third and second channel adjacencies, the effort would be fruitless. Yet in past years, the Commission was loath to approve a waiver of these adjacencies when requested. Somehow now the Commission believes that this will not create interference and reduce coverage areas, listeners and advertising base for existing operations? These grids are excellent examples of just how crowded the FM band is. It is helpful that the Commission made this study and can reflect on what damage would result from cramming more facilities into an already overcrowded arena. The Commission knows that without sacrificing protections for 2nd and 3rd adjacencies, the plan is doomed.

How Many Can Benefit? The Commission said that it received over 13,000 letters in support of the creation of a low power service. How many of those 13,000 individuals or groups does the Commission believe it can satisfy with the

creation of LPFM? Unless the Commission undermines the spectral integrity of the band, the answer is very, very few. In other words, even if the Commission gets its wish and eliminates second and third adjacent channel protections to allow more stations to be squeezed in, what percentage of this group of 13,000+ does it feel it can satisfy? The Commission is set to open a “Pandora’s box” here. Then it further rewards illegal pirate operators by telling them they can apply for a LPFM channel. If they don’t get one, then they simply turn their pirate transmitter back on, and the Commission has not solved the pirate issue, but rather created a larger problem. The Commission is unable to contain the illegal pirates operating on the band now. This LPFM issue has the potential to create a whole new group of irate people. When they discover that they are unable to receive a frequency because none is available either because the allocations in a given area are too tight, OR, the Commission has already given out those LPFM assignments that can be made, they will resort once again to pirate operations. Further, CIB cannot inspect and maintain an adequate level of compliance in the field today. How will it deal with potentially hundreds (or even thousands) more LPFM operations?

Enforcement Nightmare. The Commission proposes to allow LP100 and lower classes to be exempt from most of the Commission’s rules. Does the Commission remember the Citizen’s Band craze some years ago? Does the Commission remember Linear Amplifiers? How does the Commission intend to keep these micro-power operators from abusing their power limits? Typical

LPFM operators may not be nearly as savvy or even compliant as full power stations and we all know how many full power stations are in violation of the Commission's rules. To even consider exempting LPFM operators from the rules might, in reality, make it more difficult to force compliance of rules with which they are required to be in concurrence. Heartland sees a major issue with the small coverage areas that will plague micro and LPFM, enticing operators to simply illegally run higher power levels. The Commission will be unable to respond to and deal with such issues, since its police force is simply inadequate to deal with the existing problems, never mind those created if several hundred or several thousand more stations come into operation! A perfect example of this is that once a complaint on a pirate operation is received, it takes years for the Commission to shut it down. As of this writing, there is a pirate operating on 100.5 MHz in Fort Myers, FL. It is very short-spaced to 100.1 in the same general area. The pirate has a better signal than most Class A stations. It has been on the air for over a year, and has not been shut down, yet we know it has been reported to the Commission. How does the Commission intend to deal with these large numbers of LPFM stations to ensure compliance? What assurances can be given to legally operating full-service stations that enforcement against unlawful interference will be swiftly dealt with by the Commission, assuming it authorizes these LPFM facilities? Think about it. Those who operated pirate station in disregard of the law could get an LPFM license. What makes the Commission think these people will now operate legally, or within their assigned power level once granted a license? This is a

major concern to legally authorized broadcasters, given the time required for the Commission to shut down illegal operators.

Women and Minorities Will Not Benefit. The Commission says one of the reasons it wants to create LPFM is to help women and minorities enter the broadcasting business because deregulation has forced prices up. The Commission has also proposed to let these LPFM channels out on a first-come-first-served basis. Since the Commission will be unable to control who the first applicants will be, this goal cannot be attained.

Chairman Kennard's Statement Contradicted. FCC Chairman William Kennard, in a speech at the NAB convention in Seattle stated: "...Let me be very clear. Here is what we will not do. We will not undermine the technical integrity of the FM band. Our job is to be the guardian of the spectrum, not to degrade it". Yet the Commission proposes to eliminate second and third adjacent protections and questions if IF protection is even necessary. How can the Commission eliminate or even propose to eliminate these separations, and question IF protection yet claim not to degrade the spectrum? Further, what ramifications does placing an LP1000 transmitter in a densely populated area, at the edge of the 60-dbu contour of a second-adjacent station have in terms of desensitizing receivers? Our experience shows that this receiver problem is as much as two MHz wide, more or less. The Commission needs to do some "real world" testing before it makes such changes using some of the inexpensive radios out in the

field so as not to degrade the spectrum. There are millions of cheap radios out there that do not respond well to a strong signal next to a weaker one. Thus, stations would lose listeners in PROTECTED contour areas.

Digital Technologies Coming. Heartland is not competent to discuss ramifications of digital conversion with respect to this potential increased interference. However, it would ask the Commission to use caution and wait until data is available to ascertain the true impact on digital transmissions using the “IBOC” format, before moving forward with reducing protections and jamming the FM band with a myriad of new signals. Survival of the conventional broadcasting bands in this country may well depend upon adoption of digital technologies.

Cart Before the Horse. Heartland believes that the Commission has moved too quickly in trying to develop a low power radio service and is seeking too much information in this singular rulemaking. First, it should be decided if there is to be a low power service. Then, if the Commission is persuaded that there is to be, a separate rulemaking should be issued to determine how to implement this service, its operating rules, how channels shall be parceled out, etc. It presents a dichotomy for Heartland and other commentors in this proceeding to explain all the reasons why the Commission should not create LPFM, or should create it, and then, in the same breath, explain rational as to how it should be implemented and regulated. Thus, Heartland believes the Commission has put the cart before the horse in this NPRM. While Heartland would have numerous opinions about

LPFM service in terms of its operation and regulation, should it come to pass, it is restricting its comments here to the issue as to whether there should or should not be such a service. There are many questions asked by the Commission in the NPRM that presumes LPFM to be a reality. In our opinion, the Commission needs to carefully examine the premise before it goes about deciding how LPFM will operate. If the Commission decides after reading all of the comments it has received that there IS to be an LPFM service and what the power levels are to be, etc., THEN such things as implementation details should be discussed. We believe it is premature and too all encompassing to discuss commercial versus non-commercial, rules waived versus rules required, ownership rules and much more. At this stage, comments are more appropriately geared to either the support of or opposition to the general premise of LPFM. The Commission will receive far more cogent guidance from the industry if an additional NPRM is issued at a later date to discuss implementation details, should that be appropriate.

Radio Frequencies Are Not a Constitutional Right. Contrary to the opinion of many activists in pirate radio, it is not a constitutional right in this country to “own” a radio frequency. It is not “free speech”. The Commission cannot possibly satisfy the desire of each individual or group to have an LPFM channel. In large markets, there will be few frequencies available, if any. In rural areas, there will be more spectrum availability, but there will also be less demand. More limited coverage stations would reach little population in the rural areas. The

Commission must realize that it cannot satisfy even a small percentage of this “need” and that by permitting hundreds of these stations to come into operation, it will be doing a major disservice to existing broadcasters (and broadcasting), particularly those of us in small markets. As technologies expand, and as the Commission permitted more full-service stations to exist, audiences became more fragmented, and so did our advertising revenues. Heartland does not believe the Commission would desire to compromise the financial ability of full-service stations to properly serve their audiences. Further fragmentation of our audiences would do that.

Class D Stations Eliminated. Heartland is sympathetic to those who wish to operate LPFM. We started small, and are a small market operator. But Heartland reminds the Commission that prior to 1978 there was a ten-watt Class D FM license available to not-for-profit organizations. This was eliminated and a power minimum of 100 watts was established for non-commercial stations because the Commission reasoned that the spectrum could be more efficiently utilized by higher power facilities because they could reach larger numbers of people. The reasoning behind that was sound in 1978 and it is sound today.

LPFM Proceeding Termination Request. Heartland respectfully requests that the Commission not further compromise the technical integrity of the FM broadcast band with more facilities, and that it allow the existing facilities to remain viable in terms of both listeners and revenue. Please terminate the LPFM

proceeding. If the Commission is adamant about the “community radio” concept, then why not create some sort of tax advantage to existing broadcasters if they sell or even donate a facility to a “community” group to operate the station accordingly. There are some FM stations and many AM facilities that would probably be sold very inexpensively or donated in this fashion. Let us not have to come back later and wish we had some simple way to eradicate excessive interference on the FM band, as we are attempting to do today on the AM band. We are on that slippery slope right now with FM.

Summary. Heartland Broadcasting Corp is the licensee of WZZS, WZSP, WZTK radio, three small stations in an unrated central Florida market. Heartland believes that the Commission would open a Pandora’s Box by allowing LPFM broadcasting, that it would greatly compromise the technical integrity of the band by disregarding second and third adjacency protections as well as IF protections, and that the band is already dangerously overcrowded. Stations would lose coverage area, audience and advertising revenue. Heartland believes that it would create an untenable situation if an existing broadcaster needed to relocate a transmitter site (lost lease, etc.), and that much of the service that the Commission believes would be provided by LPFM operators is, in fact, already being provided. In addition, Heartland believes that further diminution of the band by more stations will compromise viability of existing stations to provide news and other services. Heartland requests that the Commission look at its

own grids in the NPRM and from there, it can see how crowded the FM band is in this country. More is not better. We already learned that on AM, do we need to learn it again on the FM band?

Respectfully Submitted:

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